

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 10/517,094
Filed: December 6, 2004 as Express Mail No. EV488818932US
National Phase of: International Application No. PCT/US03/18129
International Filing Date: June 6, 2003
Applicant: Michail Tsatsanis, Ming Gu, Thorkell Gudmundsson
Title: METHOD AND SYSTEM FOR PROVIDING TIME EQUALIZER
FOR MULTILINE TRANSMISSION IN COMMUNICATION
SYSTEMS
Attorney Docket: VOY-024US

VIA ELECTRONIC TRANSMISSION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

SECOND RENEWED PETITION UNDER 37 C.F.R. §1.47(a)

This is the third submission in this application of a petition to accept the declaration of a non-signing inventor under 37 C.F.R. §1.47(a). The first two submissions were deemed by the Attorney Advisor in the Office of PCT Legal Administration who examined the submissions as "not acceptable". Because this application is the only one of three related applications filed on behalf of joint inventors that include a common non-signing inventor that has been deemed "not acceptable", and because the differences among the three applications are: (1) that dates and some minor facts are different, and (2) the examining Attorney Advisors are different, it is unclear whether the denials of the two previous submissions of this petition in this application are based on factual differences or erroneous or subjective application of standard in acting on the petition. Accordingly, this submission is divided into two

parts, the first setting forth additional facts, which, it is hoped, the particular Attorney Advisor will now find acceptable. The second sets forth an argument that, should the facts not be deemed acceptable, the standard being applied by the particular Attorney Advisor is erroneous.

I.

The pertinent facts regarding the joint inventor, Michail Tsatsanis, refusing to join in this application for patent are the following:

1. The address of Mr. Tsatsanis that is last known to counsel for applicants is 217 Baltimore Avenue, Huntington Beach, California 92648.

a. Counsel wrote to Mr. Tsatsanis regarding the two related patent applications on May 31, 2005 via Federal Express at the 217 Baltimore Avenue address. Mr. Tsatsanis answered the letter on June 22, 2005 with a response sent from Aktino, a company of which he was and is currently co-founder and chief scientist, according to the company's web site, www.aktino.com. The current business address of Aktino of Mr. Tsatsanis is:

18551 Von Karman Avenue, Suite 201, Irvine, CA 92612.

b. A redacted copy of the letter from Mr. Tsatsanis of June 22, 2005 is attached as Exhibit A. The subject matter of this letter, and the documents to which he refers, do not relate to the present application. However, Mr. Tsatsanis signed this letter and listed his 217 Baltimore Avenue address.

2. The letter dated April 10, 2006, attached as Exhibit B, and a complete copy of the application and drawings, and a declaration, were sent by Counsel to

Michail Tsatsanis via certified mail addressed to the 217 Baltimore Avenue address, and subsequently returned to Counsel. Exhibit B includes a copy of the envelope to the returned certified letter, which is marked "unclaimed", and reflects that delivery was attempted or notice left on three occasions, 4/12/06, 4/17/06 and 4/27/06.

3. On May 3, 2006, Exhibit B and a cover letter, attached as Exhibit C, were sent by regular first class mail to the 217 Baltimore Avenue address. This letter has not been returned to Applicants.

4. At the time of the filing of the original petition in this application, the last address at which Mr. Tsatsanis was known to reside was the 217 Baltimore Avenue address stated above.

5. Following the first denial of applicant's petition by the Attorney Advisor in this action, Counsel determined from the USPTO website, that based on the last publicly available information, the last address of Mr. Tsatsanis that was known to the USPTO was also the 217 Baltimore Avenue address. This address was provided by Mr. Tsatsanis to the U.S. Patent and Trademark Office in a Declaration filed by him and dated 10/28/2004 in U.S. Application Serial No. 10/913,705, assigned to his company, Aktino. A copy of this declaration is attached as Exhibit D.

6. Following the denial of applicant's renewed petition by the Attorney Advisor in this action, Counsel acquired evidence to support that Mr. Tsatsanis has resided at the 217 Baltimore Avenue address at all times relevant to this petition, and that the likelihood that Mr. Tsatsanis did not receive copies of the application papers and the declaration, with a request to sign them, is almost zero. This evidence includes the following:

a. On January 5, 2007, another letter and declaration were sent by ordinary first class mail to Mr. Tsatsanis at the 217 Baltimore Avenue address, with "ADDRESS SERVICE REQUESTED". The letter was neither returned nor was an address correction notice received by Counsel. A copy of this letter and the envelope in which it was sent are attached as Exhibit E. According to United States Postal Service procedures published at

<http://www.usps.com/ncsc/addressservices/moveupdate/ace.htm>,

if Mr. Tsatsanis had moved from this address and filed an address change notice with the USPS, something would have been returned to Counsel if the USPS followed its published procedures.

b. On March 16, 2007, I checked on the web site of County Recorder of Orange County, California, cr.ocgov.com, and found that the last deed recorded for the property at 217 Baltimore Avenue in Huntington Beach, California was on May 7, 2004 and listed Michail Tsatsanis as Grantee.

c. A Lexis/Nexis search was also conducted in March, 2007, which reported that the latest address for Michail Tsatsanis was at the 217 Baltimore

Avenue address, and that his next most recent address was the San Clemente address that he X-ed out on the USPTO declaration referred to in paragraph 5.

d. An on-line search of the free White Pages showed an address for Michael Tsatsanis at 4921 Kona Drive, #C in Huntington Beach, California, and a phone number of (714) 969-9319. Lexis/Nexis reports that phone number as a land line at 217 Baltimore Avenue, Huntington Beach, CA.

e. I asked Benjamin Stevens of Los Angeles, California to drive to Huntington Beach and to try to determine who resided at the Baltimore Avenue and Kona Drive addresses. A copy of his statement is attached as Exhibit F. He states that he visited the Kona Drive address on March 16, 2007 and the person who answered the door stated she did not know Mr. Tsatsanis and that she had lived at that address for about five years.

f. I also sent Mr. Stevens a copy of a picture of Mr. Tsatsanis from the resume that is attached to Exhibit F. He stated that he approached the Baltimore Avenue address on March 18, 2007 and saw the person shown in the picture through the front window.

Based on the above, it is reasonable to conclude that Mr. Tsatsanis lived at the address to which the various mailings referred to above were sent, and that his failure to join in this application constitutes a refusal to do so.

II.

Notwithstanding that Part I above provides the facts requested by the Attorney Advisor who denied the previous submissions of this petition, it is submitted that the material requested to render this petition "acceptable" is according to a subjective standard that is not authorized by Rule 1.47(a) and not consistent with MPEP section 409.03.

Applicants seek to make this application on behalf of themselves and the non-signing inventor, Michail Tsatsanis, under 37 C.F.R. §1.47(a) based on the constructive refusal of Mr. Tsatsanis to join in the application by virtue of his failure to respond to written requests to do so. This is not a case of an inventor who cannot be found or reached. Accordingly, MPEP section 409.03(d) part I does not apply. The last address at which Mr. Tsatsanis was actually known to reside by Counsel for applicants is 217 Baltimore Avenue, in Huntington Beach, California. Mr. Tsatsanis is not known by Counsel to have resided at any address more recently than at the Baltimore Avenue address.

In this case of an inventor who has refused to join, MPEP section 409.03(d) part II states:

"Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that they should not be sent, may be sufficient...."

MPEP section 409.03(e) states that an "application filed pursuant to 37 CFR 1.47 must state the last known address of the nonsigning inventor." Further, it states

that "That address should be the last known address at which the inventor customarily receives mail. ... Ordinarily, the last known address will be the last residence of the nonsigning inventor."

There is no hint of any evidence in the record suggesting that Applicants or their Counsel know of any other address for Mr. Tsatsanis. The existence of the unreliable, free internet directory service's listing of an erroneous address does not change the fact that 217 Baltimore Avenue is the last address at which Mr. Tsatsanis is known to reside by Applicants or their Counsel. Perhaps this is a result of confusion between the case where an address of the inventor was known, and the case where an inventor cannot at all be located, where it can be reasonable to look for marginally reliable clues that would lead one to find a person.

The reference in the Attorney Advisor's decision that Applicants have not provided "any evidence to confirm that the address being used is the current address of the non-signing inventor" is a not a requirement of any CFR Rule or the MPEP. The Attorney Advisor cites what his previous decision "went on to state" as if that constituted a rule of law. That is not the case. This is not a matter of discretion by which one particular Attorney Advisor can apply his own rules. Further, neither the government nor an applicant should be burdened with the delay and expense that such arbitrary practice entails.

It is submitted that Applicants have complied with the requirements set forth by the Attorney Advisor for making this petition acceptable. Nonetheless, it is submitted that those requirements include requirements not authorized by law, and that Applicants have complied with 37 C.F.R. §1.47(a).

Therefore, Applicants submit that a *bona fide* attempt has been made to provide inventor Michail Tsatsanis with the entire application including the specification, claims, drawings, and Declaration, Power of Attorney, and Petition at his last known address, and that he has refused to join in this application. Accordingly, this petition should be granted.

The Commissioner is hereby authorized to charge payment of any additional fees or credit any overpayment to Deposit Account No. 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

BY Joseph R. Jordan/

Joseph R. Jordan, Reg. No. 25,686

2700 Carew Tower
Cincinnati, OH 45202
(513) 241-2324
(513) 241-6234 (Facsimile)
jjordan@whepatent.com (Email)

RECEIVED

June 22, 2005

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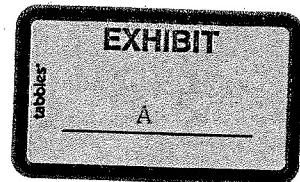
WOOD, HERRON & EVANS

Joseph R. Jordan
Wood, Herron and Evans, LLP
2700 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202-2917

RE: US Patent Applications VOY-023 and VOY-025

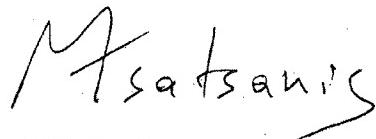
Dear Mr. Jordan,

This letter is in response to your letter of May 31, 2005, requesting that I review the above mentioned patent applications, and sign the declaration documents. Thank you for providing the application manuscripts, which I have now reviewed.



As you can appreciate, family and career pressures on my time do not allow me to expend further effort either requesting the necessary documents or reviewing claims and reconciling them with the documents we originally submitted. This is now my third correspondence on this matter either requesting or correcting the documents and I do not have any additional time to dedicate to these matters. I will consider this issue closed and I trust that you will find a way to proceed in your efforts without my further involvement.

Sincerely,

A handwritten signature in black ink, appearing to read "Michail Tsatsanis".

Michail Tsatsanis
217 Baltimore Ave.
Huntington Beach, CA 92648

WOOD, HERRON & EVANS, LLP

BRUCE TITTEL
DAVID S. STALLARD
J. ROBERT CHAMBERS
GREGORY J. LUNN
KURT L. GROSSMAN
CLEMENT H. LUKEN, JR.
THOMAS J. BURGER
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WEBSITE: www.whepatent.com

PATENT, TRADEMARK, COPYRIGHT
AND UNFAIR COMPETITION LAW
AND RELATED LITIGATION

EDMUND P. WOOD 1823-1988
TRUMAN A. HERRON 1835-1976
EDWARD B. EVANS 1836-1971

JOSEPH R. JORDAN
C. RICHARD EBY

WILLIAM R. ALLEN, Ph.D.
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JOHN D. POFFENBERGER, Jr.
DAVID J. JOSEPHIC
DONALD F. FREI
THOMAS W. FLYNN
J. DWIGHT POFFENBERGER, Jr.
BRADLEY D. BECK

April 10, 2006

VIA CERTIFIED MAIL

Mr. Michail Tsatsanis
217 Baltimore Ave.
Huntington Beach, CA 92648

Re: Utility Patent Application Serial No. 10/517,094
National Phase of PCT/US03/18129
A METHOD AND SYSTEM FOR PROVIDING A TIME EQUALIZER FOR
MULTILINE TRANSMISSION IN COMMUNICATION SYSTEMS
Inventors: Michail Tsatsanis, Ming Gu, Thorkell Gudmundsson
Our Ref.: VOY-024US

Dear Mr. Tsatsanis:

A complete copy of the above-identified patent application, including the specification, claims and drawings, along with the first preliminary amendment, as filed, are enclosed for your reference.

The enclosures include the application as filed based on the PCT application and the preliminary amendment. For your convenience, we are providing an "application as amended", in which we have combined the application as filed with the amendments, replacing the original pages and claims of the PCT application with the new pages and claims from the preliminary amendment. This "application as amended" contains the subject matter to which the Declaration relates that you are being asked to sign.

A Declaration and an Assignment are enclosed. After reviewing the enclosed copies of the application papers, please execute these and return them to us for filing in this application. If we do not receive the signed Declaration from you within 30 days of the date of this letter, we would proceed with this application in the absence of your signature under 37 C.F.R. §1.47, and we will file a petition as provided by that rule when an inventor refuses to sign a Declaration. But we do not believe that will be necessary, as we trust you will find the application and related papers that are enclosed acceptable and will return the signed Declaration and Assignment. If you have any comments, we will consider them.

EXHIBIT

B

WOOD, HEPRON & EVANS, LLP

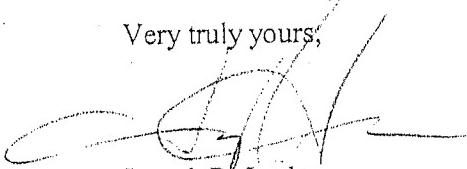
Mr. Michail Tsatsanis

April 10, 2006

Page 2

Please let me know if you have any questions.

Very truly yours,



Joseph R. Jordan

jjordan@whepatent.com

JRJ:ah

Enclosures

cc: Tugrul Yasar, Ph.D.

Thomas W. Humphrey, Esq. (w/o enc.)



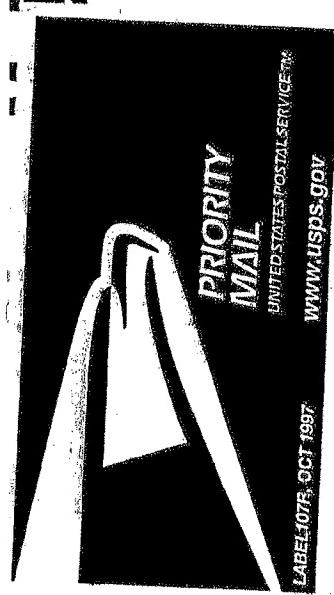
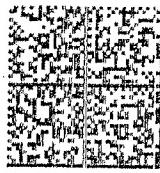
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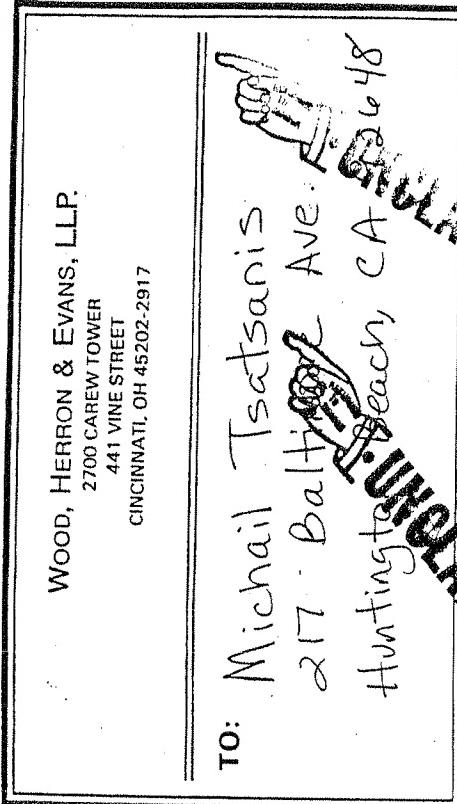
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US POSTAGE



Wood, HERRON & EVANS, LLP.
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CINCINNATI, OH 45202-2917

TO: Michael Tsatsanis
217 - Ballington Ave.
Huntington Beach, CA 92648

Y/12/06
4-17
4-27



WOOD, HERRON & EVANS, LLP

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WEBSITE: www.whepatent.com

PATENT, TRADEMARK, COPYRIGHT
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AND RELATED LITIGATION

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TRUMAN A. HERRON 1935-1976
EDWARD B. EVANS 1936-1971

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DONALD F. FREI
THOMAS W. FLYNN
J. DWIGHT POFFENBERGER, JR.
BRADLEY D. BECK

May 3, 2006

VIA REGULAR MAIL

Mr. Michail Tsatsanis
217 Baltimore Ave.
Huntington Beach, CA 92648

Re: Utility Patent Application Serial No. 10/517,094
National Phase of PCT/US03/18129
A METHOD AND SYSTEM FOR PROVIDING A TIME EQUALIZER FOR
MULTILINE TRANSMISSION IN COMMUNICATION SYSTEMS
Inventors: Michail Tsatsanis, Ming Gu, Thorkell Gudmundsson
Our Ref.: VOY-024US

Dear Mr. Tsatsanis:

Enclosed is a letter and enclosures which were sent to you via certified mail on April 10, 2006. The letter and enclosures were returned unclaimed.

Very truly yours,

Joseph R. Jordan
jjordan@whepatent.com

JRJ:ah

Enclosures

cc: Tugrul Yasar, Ph.D.
Thomas W. Humphrey, Esq. (w/o enc.)

EXHIBIT

tabber

C



DECLARATION - USA PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled METHOD AND APPARATUS FOR TRAINING USING VARIABLE TRANSMIT SIGNAL POWER LEVELS, the specification of which was filed on August 6, 2004 as Application Serial No. 10/913,705.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s), or Section 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States of PCT International application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56, which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S. Application(s)

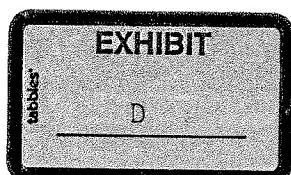
None

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

Prior U.S. Provisional Application(s)

None

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below any foreign application for patent or inventor's certificate or PCT international application having a filing date before that of the application on which priority is claimed.



Prior Foreign Application(s)

None

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of inventor: Michail Konstantinos Tsatsanis

Inventor's signature M.Tsatsanis

Date 10/28/04

M.T.

Residence: ~~103 W. Paseo De Cristobal
San Clemente, CA 92672-4226~~

~~217 BALTIMORE AVE
HUNTINGTON BEACH, CA 92648~~

Citizenship: U.S.A.

M.Tsatsanis

Post Office Address: Same as Above.

Send Correspondence To:

Customer No. 000032856

WOOD, HERRON & EVANS, L.L.P.

BRUCE TITTEL
 DAVID S. STALLARD
 J. ROBERT CHAMBERS
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 THOMAS W. FLYNN
 J. DWIGHT POFFENBERGER, JR.
 BRADLEY D. BECK

January 5, 2007

Mr. Michail Tsatsanis
 217 Baltimore Ave.
 Huntington Beach, CA 92648

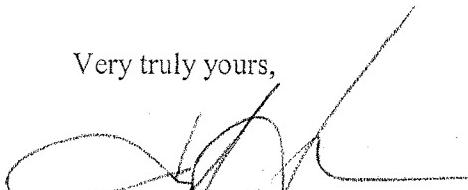
Re: Utility Patent Application Serial No. 10/517,094
 National Phase of PCT/US03/18129
 A METHOD AND SYSTEM FOR PROVIDING A TIME EQUALIZER FOR
 MULTILINE TRANSMISSION IN COMMUNICATION SYSTEMS
 Inventors: Michail Tsatsanis, Ming Gu, Thorkell Gudmundsson
 Our Ref.: VOY-024US

Dear Mr. Tsatsanis:

Enclosed is another copy of the Declaration. After reviewing, please execute and return to us for filing in this application. We forwarded the application to you on April 10, 2006.

Please let me know if you have any questions.

Very truly yours,


 Joseph R. Jordan
jjordan@whepatent.com

JRJ:gl

Enclosure

cc: Tugrul Yasar, Ph.D.
 Thomas W. Humphrey, Esq. (w/o enc.)

EXHIBIT

E

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OHIO 45202-2917

ADDRESS SERVICE REQUESTED

Mr. Michail Tsatsanis
217 Baltimore Avenue
Huntington Beach, CA 92649-2341

92648-5209

DECLARATION OF BENJAMIN STEVENS

I, Benjamin Stevens, state that:

1. I presently reside in Los Angeles, California.
2. I was asked by Joseph R. Jordan to drive to Huntington Beach, California and attempt to verify, for a matter pending in the U.S. Patent and Trademark Office, whether a Michail Tsatsanis resided at either one of the following two addresses:

217 Baltimore Avenue
Huntington Beach, CA 92648

and

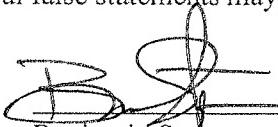
4921 Kona Drive #C
Huntington Beach, CA 92649

3. On Friday, March 16, 2007, I visited both addresses with the following results:

- a) At 4921 Kona Drive #C, a woman answered the door and told me she did not know a Michail Tsatsanis, and that she had lived at that address for about five years;
- b) At 217 Baltimore Avenue, no one answered the door.

4. On Sunday, March 18, 2007, I again visited the Baltimore Avenue address and stopped in front of the house at that address. Through a large front window I saw the man who is shown in the picture on the sheet attached to this declaration.

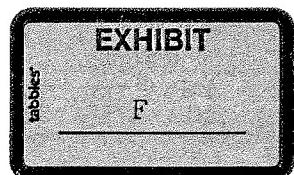
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



Benjamin Stevens

Date

3/27/07



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Michail Tsatsanis

Michail Tsatsanis is a founder and Chief Scientist of Aktino, a company developing next generation DSL transceiver technology. Prior to that he was with Voyan Technology, where he served as Chief Scientist and Chief Technical Officer. From 1995 to 2000, he was with Stevens Institute of Technology, NJ, where he served as an Associate Professor in Electrical Engineering. He is the author of more than 80 peer reviewed papers, three book chapters, and several patents. At Aktino he is leading a technology team that was first to successfully implement and produce a MIMO vectored transceiver in the DSL space. He has received a number of distinctions including the National Science Foundation CAREER Award and two IEEE Best Paper Awards. He has served the IEEE in various capacities including the position of Associate Editor for two IEEE Transactions and Chair of workshop organizing committees. He holds M.S. and Ph.D. degrees in electrical engineering from the University of Virginia.

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